

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: William MacLure	Team: Squad #16	CCRB Case #: 201607604	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 08/29/2016 6:30 PM	Location of Incident: § 87(2)(b)	Precinct: 113	18 Mo. SOL 2/28/2018	EO SOL 2/28/2018	
Date/Time CV Reported Mon, 08/29/2016 7:35 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 09/06/2016 11:03 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Peter Ahn	14179	948594	113 PCT
2. POM Thomas Skobla	21699	945316	113 PCT
3. SGT Stanley Macnear	03246	925648	113 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Peter Ahn	Abuse: Police Officer Peter Ahn entered § 87(2)(b) in Queens.	§ 87(2)(b)
B.POM Thomas Skobla	Abuse: Police Officer Thomas Skobla entered § 87(2)(b) in Queens.	§ 87(2)(b)
C.POM Peter Ahn	Abuse: Police Officer Peter Ahn threatened to arrest § 87(2)(b)	§ 87(2)(b)
D.POM Thomas Skobla	Abuse: Police Officer Thomas Skobla threatened to arrest § 87(2)(b)	§ 87(2)(b)
E.POM Peter Ahn	Abuse: Police Officer Peter Ahn refused to provide his name and/or shield number to § 87(2)(b)	§ 87(2)(b)
F.POM Thomas Skobla	Abuse: Police Officer Thomas Skobla refused to provide his name and/or shield number to § 87(2)(b)	§ 87(2)(b)
G.SGT Stanley Macnear	Discourtesy: Sergeant Stanley MacNear spoke discourteously to § 87(2)(b)	§ 87(2)(b)
H.SGT Stanley Macnear	Abuse: Sergeant Stanley MacNear supervised the entry of § 87(2)(b) in Queens.	§ 87(2)(b)
I.SGT Stanley Macnear	Abuse: Sergeant Stanley MacNear threatened to arrest § 87(2)(b)	§ 87(2)(b)
§ 87(4-b), § 87(2)(g)	§ 87(2)(b)	§ 87(2)(b)
§ 87(4-b), § 87(2)(g)	§ 87(2)(b)	§ 87(2)(b)

### Case Summary

On August 29, 2016, § 87(2)(b) filed this complaint via telephone with IAB under original log number 16-30775. This case was referred to the CCRB on September 6, 2016.

On August 29, 2016, at approximately 6:30 p.m., PO Peter Ahn and PO Thomas Skobla responded to § 87(2)(b) in Queens for a report of a burglary. § 87(2)(b) was residing at § 87(2)(b) at the time of this incident. PO Ahn and PO Skobla entered § 87(2)(b) in Queens (**Allegations A and B**). PO Ahn and PO Skobla threatened to arrest § 87(2)(b) for trespassing if he did not leave the location (**Allegations C and D**). § 87(2)(b) asked PO Ahn and PO Skobla to identify themselves and they did not (**Allegations E and F**). Sgt. Stanley MacNear responded to the location. Sgt. MacNear said to § 87(2)(b) “Open the fucking door motherfucker” (**Allegation G**). Sgt. MacNear entered § 87(2)(b) in Queens (**Allegation H**). Sgt. MacNear threatened to arrest § 87(2)(b) for trespassing if he did not leave the location (**Allegation I**). § 87(4-b), § 87(2)(g)

Ultimately, § 87(2)(b) was given time to pack his belongings and left. § 87(2)(b) was homeless as a result of this incident.

No one was arrested or summonsed as a result of this incident.

§ 87(2)(b) took a video on his cell phone during this incident. A SnagIt copy of the video has been inserted below. The original video received from IAB and the transcription of the video can be found under Board Reviews 01 and 02 respectively (Board Review 01-02).



Video 201607604.mp4

APU Attorney Andre Applewhite was consulted regarding this case on October 4, 2016.

### Mediation, Civil and Criminal Histories

- § 87(2)(b) rejected mediation § 87(2)(b)
- § 87(2)(b) has had no criminal convictions in the past 10 years.

### Civilian and Officer CCRB Histories

- This was § 87(2)(b) first complaint filed with the CCRB (Board Review 03).
- This was the first complaint filed against PO Ahn.
- PO Skobla had four previous allegations stemming from one complaint that resulted in three substantiations.
  - In CCRB case number 201411788, a vehicle stop allegation and a discourtesy allegation were both substantiated § 87(4-b), § 87(2)(g)
- Sgt. MacNear had two previous allegations stemming from one complaint with no substantiated allegations.

### Potential Issues

- The investigation identified § 87(2)(b) and § 87(2)(b) as civilian witnesses to this incident. Contact attempts to § 87(2)(b) and § 87(2)(b) were exhausted and neither

provided a sworn statement. § 87(2)(b) provided a brief phone statement on November 2, 2016, and said he would provide the contact information for § 87(2)(b) (Board Review 10). However, he never did this and did not respond to subsequent contact attempts.

### **Findings and Recommendations**

#### **Explanation of Subject Officer Identification**

- **Allegation H** was pleaded against Sgt. MacNear because he was the supervisor on scene at the time of the second entry. It is undisputed that Sgt. MacNear entered the house first and PO Ahn and PO Skobla followed him into the location.

#### **Allegation A – Abuse of Authority: Police Officer Peter Ahn entered § 87(2)(b) in Queens.**

#### **Allegation B – Abuse of Authority: Police Officer Thomas Skobla entered § 87(2)(b) in Queens.**

APU Attorney Andre Applewhite was consulted regarding the entry allegations in this case.

It is undisputed that § 87(2)(b) gave PO Ahn and PO Skobla consent to enter § 87(2)(b) in Queens.

§ 87(2)(b) was interviewed at the CCRB on September 12, 2016 (Board Review 04). PO Ahn and PO Skobla knocked on the door to § 87(2)(b) residence, located at § 87(2)(b) in Queens, and asked him to come outside. § 87(2)(b) complied and opened the door. The officers told § 87(2)(b) that they wanted to see the house and asked if they could come inside. § 87(2)(b) told the officers that they could come inside. PO Ahn and PO Skobla entered the house.

PO Ahn was interviewed at the CCRB on October 18, 2016 (Board Review 05). PO Ahn and PO Skobla responded to a call for a burglary at § 87(2)(b) in Queens. When they arrived, PO Ahn and PO Skobla spoke with two people standing outside the location. One person said he owned the house at the location and that there was a person he did not know inside. PO Ahn and PO Skobla knocked on the door and § 87(2)(b) opened it. PO Ahn could not remember if § 87(2)(b) said anything when he opened the door. PO Ahn could not remember if he and PO Skobla asked § 87(2)(b) for permission to enter the house before entering.

PO Skobla was interviewed at the CCRB on October 27, 2016 (Board Review 06). PO Skobla corroborated PO Ahn's statement regarding the report of a burglary at the location and the person claiming to be the owner standing outside the house. PO Skobla said that he asked § 87(2)(b) if he and PO Ahn could enter the house. § 87(2)(b) said yes and allowed the officers to enter the house.

The police may lawfully conduct a warrantless search when they have obtained the voluntary consent of a party who possesses the requisite degree of authority and control over the premises, People v. Cosme, 48 N.Y.2d 286 (Board Review 07).

§ 87(2)(g)

**Allegation C – Abuse of Authority: Police Officer Peter Ahn threatened to arrest § 87(2)(b)**

**Allegation D – Abuse of Authority: Police Officer Thomas Skobla threatened to arrest**

§ 87(2)(b)

APU Attorney Andre Applewhite was consulted regarding the threat of arrest allegations in this case.

§ 87(2)(b) (Board Review 04) said that after PO Ahn and PO Skobla entered the house, he explained that he had been living there and went to go get his lease, which was in his room on the second floor. § 87(2)(b) presented the lease to PO Ahn and PO Skobla. The officers told § 87(2)(b) the lease was not valid because the property owner's name was not on it. § 87(2)(b) believed that one of the men who had been standing outside was a real estate agent posing as the owner of the house. The officers told § 87(2)(b) that he had to leave. § 87(2)(b) explained to the officers that he had been living at the location since June 9, 2016. § 87(2)(b) also showed the officers a piece of mail that he had, but the officers did not care. PO Ahn and PO Skobla told § 87(2)(b) that he had to leave the house within five minutes or else they would arrest him for trespassing. § 87(2)(b) became upset and requested to speak with a supervisor.

PO Ahn (Board Review 05) said that after he and PO Skobla entered the house, § 87(2)(b) took them upstairs to show them his lease agreement. PO Ahn said the lease agreement looked “bogus” because it looked handwritten and there was no seal on it. PO Ahn did not remember exactly what was on the lease agreement, but said that § 87(2)(b) name and the start date of the lease were probably on it. PO Ahn could not remember what date was on the lease and could not remember if it was over 30 days before the incident date. § 87(2)(b) also showed the officers a handwritten receipt for approximately \$5,000. Both PO Ahn and PO Skobla asked § 87(2)(b) for more documentation or proof that he had been living there. § 87(2)(b) could not present any bills. The officers told § 87(2)(b) that his lease was invalid and PO Ahn told § 87(2)(b) that he had to leave or else he would be arrested for trespassing. PO Ahn could not remember if PO Skobla ever told § 87(2)(b) that he had to leave or else he would be arrested for trespassing.

PO Skobla (Board Review 06) did not remember if § 87(2)(b) said how long he had lived at the location. PO Skobla did not remember if § 87(2)(b) showed any documents indicating whether or not he lived at the location. PO Ahn and PO Skobla determined that § 87(2)(b) had to leave the premises because he had no proof that he lived there. § 87(2)(b) had no mail coming to the location, no proof saying that he lived there, and no lease. Additionally, the person claiming to be the owner who had called the police showed the officers documents saying that the property was his. PO Skobla did not remember what documents the person claiming to be the owner showed them. PO Skobla denied threatening to arrest § 87(2)(b) but said that he informed § 87(2)(b) he could be arrested if he did not leave the location.

It shall be unlawful for any person to evict or attempt to evict an occupant of a dwelling unit who has lawfully occupied the dwelling unit for thirty consecutive days or longer or who has entered into a lease with respect to such dwelling unit, NYC Administrative Code 26-521 (Board Review 08).

The role of a uniformed member of the service when called to the scene of an eviction or other civil process situation is to preserve the peace and prevent the commission of a crime. The execution of a warrant of eviction is the sole responsibility of the city marshal/sheriff, Patrol

Guide, Procedure 214-13, “Evictions, Repossessions and Other Civil Process,” (Board Review 09).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

**Allegation E – Abuse of Authority: Police Officer Peter Ahn refused to provide his name and/or shield number to § 87(2)(b)**

**Allegation F – Abuse of Authority: Police Officer Thomas Skobla refused to provide his name and/or shield number to § 87(2)(b)**

It is disputed whether or not § 87(2)(b) asked PO Ahn and PO Skobla for their names and shield numbers.

§ 87(2)(b) (Board Review 04) said that, after the officers threatened to arrest him, he became upset and requested to speak with a supervisor. § 87(2)(b) told PO Ahn and PO Skobla, “Identify yourselves.” Neither PO Ahn nor PO Skobla responded to § 87(2)(b) request. PO Ahn and PO Skobla did not say their names or any identifying information.

PO Ahn (Board Review 05) did not recall if § 87(2)(b) ever asked for his name or shield number or for PO Skobla’s name or shield number. PO Ahn never refused to provide his name or shield number to § 87(2)(b). PO Ahn said that PO Skobla never refused to provide his name or shield number to § 87(2)(b).

PO Skobla (Board Review 06) also did not recall if § 87(2)(b) ever asked for officers’ names or shield numbers.

§ 87(2)(g)

**Allegation G – Discourtesy: Sergeant Stanley MacNear spoke discourteously to § 87(2)(b)**

It is disputed whether or not Sgt. MacNear said, “Open the fucking door, motherfucker,” to § 87(2)(b).

§ 87(2)(b) (Board Review 04) said that, after he requested that a supervisor respond to the scene, PO Ahn and PO Skobla exited the house and § 87(2)(b) locked his door. After about 10 to 15 minutes, Sgt. MacNear responded to the location and began knocking very hard on the front door to the house. Sgt. MacNear yelled, “Open the fucking door, motherfucker.” § 87(2)(b) knew it was Sgt. MacNear because he was the only one talking to § 87(2)(b) and PO Ahn and PO Skobla were standing in the front yard with the real estate agent and the person claiming to own the house.

§ 87(2)(b) provided a brief phone statement on November 2, 2016 (Board Review 10). § 87(2)(b) denied ever hearing Sgt. MacNear speak discourteously to § 87(2)(b).

Sgt. MacNear was interviewed at the CCRB on October 19, 2016 (Board Review 11). Sgt. MacNear denied ever speaking discourteously to § 87(2)(b). Sgt. MacNear did not recall stating to § 87(2)(b) “Open the fucking door, motherfucker,” and denied hearing any officer make this statement.

PO Ahn (Board Review 05) and PO Skobla (Board Review 06) did not recall if Sgt. MacNear or any officer used profanity or said, “Open the fucking door, motherfucker,” to § 87(2)(b).

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§ 87(2)(g)

**Allegation H – Abuse of Authority: Sergeant Stanley MacNear supervised the entry of § 87(2)(b) in Queens.**

APU Attorney Andre Applewhite was consulted regarding this entry allegation.

It is undisputed that Sgt. MacNear entered § 87(2)(b) with PO Ahn and Skobla. PO

§ 87(2)(b) (Board Review 04) said that the officers walked around the side of the house to the back door and began banging on the back door. § 87(2)(b) eventually decided to go and talk to the officers. § 87(2)(b) went into the front yard and the officers walked around from the back yard to the front yard. § 87(2)(b) told the officers that he was going to go back inside and get his lease so he could show it to them. § 87(2)(b) said he would be right back and went to get the lease inside the house. § 87(2)(b) went upstairs and got the lease. § 87(2)(b) did not specify whether or not he closed the door when he went upstairs. When he came back downstairs, PO Ahn, PO Skobla, and Sgt. MacNear were all inside the front door of his house. § 87(2)(b) did not see them enter his house and said that everyone entered the house while he was upstairs.

Sgt. MacNear (Board Review 11) said that about 10 minutes after he arrived at the location, the officers were able to convince § 87(2)(b) to open the door to the house. When § 87(2)(b) opened the door, he told the officers that they could not kick him out. § 87(2)(b) went back in the house and stood in the hallway. Sgt. MacNear did not remember if § 87(2)(b) verbally consented to the officers’ entry into the house. Sgt. MacNear did not remember asking § 87(2)(b) if he could come into the house. Sgt. MacNear said that the people claiming to be the owners of the house gave him consent to enter the house. The officers entered the house to speak with § 87(2)(b).

PO Ahn (Board Review 05) did not recall when exactly § 87(2)(b) opened the door to the house again. § 87(2)(b) told Sgt. MacNear that he had a lease agreement upstairs and he was going to go get it. Sgt. MacNear entered the house and stood in the hallway just inside the door.

PO Ahn and PO Skobla followed Sgt. MacNear into the hallway. PO Ahn said that the officers could still see § 87(2)(b) when they entered the house. PO Ahn could not remember if § 87(2)(b) said anything when the officers entered the house. PO Ahn could not recall if Sgt. MacNear or PO Skobla asked § 87(2)(b) if the officers could enter the house before they entered. PO Ahn did not ask § 87(2)(b) for permission to enter the house.

PO Skobla (Board Review 06) said that § 87(2)(b) opened the door, but did not remember if § 87(2)(b) gave the officers verbal permission to enter the location the second time he entered.

The police may lawfully conduct a warrantless search when they have obtained the voluntary consent of a party who possesses the requisite degree of authority and control over the premises, People v. Cosme, 48 N.Y.2d 286 (Board Review 07).

§ 87(2)(g)

§ 87(2)(g)

#### **Allegation I – Abuse of Authority: Sergeant Stanley MacNear threatened to arrest** § 87(2)(b)

APU Attorney Andre Applewhite was consulted regarding this threat of arrest allegation. § 87(2)(b) (Board Review 04) said that when he came back downstairs, Sgt. MacNear told him that the lease was invalid before even looking at it. § 87(2)(b) handed the lease to Sgt. MacNear. Sgt. MacNear barely looked at the lease and told § 87(2)(b) that he had to leave or else he would be arrested for trespassing.

Sgt. MacNear (Board Review 11) stated that after entering the house, § 87(2)(b) told the officers that he had lived at the location for more than 30 days. Sgt. MacNear asked § 87(2)(b) if he had any documentation that he was there for 30 days. § 87(2)(b) showed the officers a shipping label that had no address and no name on it. § 87(2)(b) also showed the officers a receipt indicating that he had paid someone to rent the house from Craigslist. The receipt was a piece of paper with § 87(2)(b) name, the name of the person he was renting from, and the amount of money § 87(2)(b) paid. Sgt. MacNear did not remember seeing a date on the receipt, nor did he remember how much the receipt was for. Sgt. MacNear said the receipt looked like a piece of paper that someone made up on a computer and there was no official letterhead or seal on it. The officers told § 87(2)(b) that he had to get his belongings and leave. § 87(2)(b) asked what would happen if he did not leave. Sgt. MacNear explained that he could be issued a summons for criminal trespass. Sgt. MacNear believed that § 87(2)(b) asked, “What’s the worst that could happen to me?” Sgt. MacNear told § 87(2)(b) that, “If you don’t leave, then it’s possible that you could be arrested.

PO Ahn (Board Review 05) stated that after § 87(2)(b) showed Sgt. MacNear his lease, Sgt. MacNear told him that he had to leave or else the officers would arrest him for trespassing.

PO Skobla (Board Review 06) stated that an officer told § 87(2)(b) he had to leave the location or else he would be arrested, but he could not recall who said this.

It shall be unlawful for any person to evict or attempt to evict an occupant of a dwelling unit who has lawfully occupied the dwelling unit for thirty consecutive days or longer or who has entered into a lease with respect to such dwelling unit, NYC Administrative Code 26-521 (Board Review 08).

The role of a uniformed member of the service when called to the scene of an eviction or other civil process situation is to preserve the peace and prevent the commission of a crime. The execution of a warrant of eviction is the sole responsibility of the city marshal/sheriff, Patrol Guide, Procedure 214-13, "Evictions, Repossessions and Other Civil Process," (Board Review 09).

§ 87(2)(g)

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

Squad:

Investigator: \_\_\_\_\_  
Signature Print Date

Squad Leader: \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_  
Title/Signature Print Date



